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12 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

13 UNITED STATES OF AMERICA

14 Plaintiff,

15 v.

16 JAN ROUVEN FUECHTENER,

17 Defendant.
18

19 Case No. 2:16-cr-00100-GMN-CWH

20

21 **REPLY IN SUPPORT OF MOTION
FOR RELEASE OF FUNDS TO
F.A.J.R. MAGIC TRUST**

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23 Intervenor F.A.J.R. Magic Trust (“Magic Trust”) respectfully submits this
reply in support of its Motion for Release of Funds to the F.A.J.R. Magic Trust. The
civil plaintiffs acknowledge that their motion for prejudgment writ of attachment

1 was denied. (ECF 420 at 2). Nevertheless, the civil plaintiffs assert that they do not
2 “waive any post-judgment remedies to recover against Defendant or F.A.J.R. Magic
3 Trust or any other property belonging to Defendant, and Plaintiffs do not waive
4 claims with respect to statutes of limitations for vesting periods of the trust, or the
5 right to challenge the trust itself, or causes of action for fraudulent conveyance.”
6 (ECF 420 at 2). In addition, the civil plaintiffs state that, “[t]his representation is
7 particularly important in light of the fact that Defendant’s motion for release of
8 funds was made after his Motion to Dismiss the civil case was denied [Doc. 50,
9 entered 10/27/2020], and while a Motion for Summary Judgment is pending in the
10 civil case[Doc. 41].” (ECF 420 at 2).

11 First, regardless of whatever post-judgment remedies the civil plaintiffs may
12 like to assert, they do not currently have a judgment. The civil plaintiffs’ *hope* for a
13 judgment cannot serve as a *de facto* mechanism to continue to hold funds in the
14 registry of the Court given that their prejudgment motion for writ of attachment
15 has been denied.

16 Second, the civil plaintiffs are incorrect to assert that this motion is made by
17 the Defendant in this matter. The motion for release of funds is made by the
18 F.A.J.R. Magic Trust alone.

19 Third, and finally, the timing of the presentment of the motion for release of
20 funds cannot serve as a basis for the Court to continue to hold the funds. After the
21 prejudgment writ of attachment was denied, the country faced the COVID-19
22 epidemic. The attorney who previously represented the F.A.J.R. Magic Trust,
23

Zachary Newland, took time off because of the arrival of his first child and then changed employment to a different firm in September 2020. The F.A.J.R. Magic Trust elected to continue with representation by Brandon Sample PLC. New undersigned lead counsel, Mr. Brandon Sample, was granted leave to appear *pro hac vice* in this matter on October 14, 2020. (ECF 418). The motion for release of funds was presented shortly after Mr. Sample's *pro hac* was granted. There is nothing nefarious associated with the timing of the filing of this motion.

There is no lawful basis for the Court to continue to hold the funds.

Accordingly, the Court should grant the F.A.J.R. Magic Trust's motion for release of funds.

Respectfully submitted,

/s/ Lance J. Hendron
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15 **CERTIFICATE OF SERVICE**

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17 I hereby certify that a true and correct copy of the foregoing was served this
18 11th day of November 2020, via CM/ECF on all counsel of record.

19
20 /s/ Brandon Sample
21 Brandon Sample